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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Kia Silverbrook, et al.
Application No. 09/575,134
Filed: May 23, 2000
For: EFFECTS MODULE FOR COMPACT
PRINTER SYSTEM

DECISION
ON PETITION

This is a decision on the petition, filed on May 18, 2004 which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to MPEP §711.03 and 37 C.F.R. §1.181(a). No fee is required.

The petition is granted.

This application became abandoned for failure to timely file a response to the Office action mailed July 3, 2003, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on April 7, 2004.

Petitioner alleges to have timely filed a proper response to the Office action mailed July 30, 2003. In support, petitioner has provided as evidence, a copy of the response to said Office action, a transmittal letter which referenced the response and which included a Certificate of Facsimile Transmission report dated September 9, 2003. Also included with the response is a copy of a Facsimile Transmission Report indicating that an 11-page document from Petitioner was transmitted to the U.S. Patent and Trademark Office on September 8, 2003.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

Petitioner is also the one who executed the certificate of transmission, thus satisfying the personal statement requirement. Although the telephone number used to transmit the response was not an official Office facsimile number for submission of communications, the facsimile number was provided to Applicants by the examiner within the Office action mailed July 30, 2003. Accordingly, it is deemed that the original response was transmitted to the Office and subsequently misplaced.

The Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the technical support staff for entry of the copy of the original response filed via facsimile transmission, and from there will be forwarded to the Examiner for appropriate action in due course.

For future reference, Applicants might want to note that all future facsimile transmissions to the Office should be to the Official Fax number for the entire Patent and Trademark Office (i.e., 703-872-9306).

A handwritten signature in black ink, appearing to read 'D. Bost', is written over a horizontal line.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications